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SENATE

} REPORT
No. 297

RELIEF OF THE STATE OF INDIANA

FEBRUARY 24, 1932.—Ordered to be printed

Mr. SMOOT, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 1528]

The Committee on Finance, to whom was referred the bill (S. 1528) for the relief of the State of Indiana, having considered the same, report it back to the Senate and recommend that the bill do not pass.

The report of the Veterans' Administration is as follows:

VETERANS' ADMINISTRATION,
Washington, February 2, 1932.

HON. REED SMOOT,
Chairman Committee on Finance,
United States Senate, Washington, D. C.

MY DEAR SENATOR SMOOT: Receipt is acknowledged of your letter of December 29, 1931, with which you forwarded for report a copy of S. 1528, Seventy-second Congress, a bill for the relief of the State of Indiana.

The bill proposes that the Secretary of the Treasury be authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the State of Indiana, the sum of \$9,870 in full satisfaction of all claims against the United States for reimbursement under subdivision (3) of section 202 of the World War veterans' act, 1924, as amended, for hospital services rendered during the years 1922, 1923, and 1924, by the Indiana State Sanatorium at Rockville, Ind., to the following-named World War veterans: Ezra Cox, Raymond Holmes, Harvey Parrish, Lowell Pfrimer, Fred Powell, Charles Richardson, Parchol Robinson, Brij VanGookins, Clarence N. Young.

It may be stated that the amount proposed for payment by this bill represents the total amount of all suspensions made by the Veterans' Administration from a claim of \$17,793 submitted by the Indiana State Sanatorium, of Rockville, Ind., to the Veterans' Administration on August 15, 1930, through the office of Senator Arthur R. Robinson of Indiana. In the adjudication of this claim there has been found allowable the sum of \$7,923, payment of which having been accomplished as the various case files concerned could be obtained, the facts gone into, and a determination reached. The total amount which would be authorized by the bill is \$9,870, while the total amount disallowed in the nine claims mentioned above amounts to \$8,607. The difference between these two sums is identical with the total of the sums disallowed in the claims of the State of Indiana for treatment at the Indiana State Sanatorium of Kenneth Able and Owen E. Bell. With reference to the treatment of Kenneth Able, \$30 was disallowed, and \$1,233 was disallowed on the claim for treatment of Owen E. Bell. Since the bill does not mention the names of these two veterans, the facts with reference to their claims

will not be reported in this communication but will be furnished if you so desire and will request this office for the information.

The present authority for payment through the Veterans' Administration to State institutions for sums covering the cost of hospitalization furnished Veterans' Administration beneficiaries by such institutions will be found in section 202 (3) of the World War veterans' act, as amended July 3, 1930, which provides:

"* * * That where any person entitled to the benefits of this paragraph has heretofore been hospitalized in a State institution, the United States Veterans' Bureau is hereby authorized to reimburse such person, or his estate, where payment has been made to the State out of the funds of such person, or to reimburse the State or any subdivision thereof where no payment has been made for the reasonable cost of such services from the date of admission. * * *

The foregoing provision is otherwise governed by the following limitations quoted from section 1252, R. & P. (R), subparagraph C, 1, 2, 3, and 4:

"(C) Claims filed under the last proviso of section 202 (3) of the World War veterans' act, 1924, as amended, will be adjudicated subject to the following limitations:

"(1) No period of hospitalization will be paid for which is not covered by an award of compensation for the disability on account of which hospitalization was necessary.

"(2) Payment in favor of a State or subdivision thereof for hospitalization in a State institution or to a person or persons whose funds were used in defraying the cost of hospitalization will not be made for periods of unauthorized hospitalization subsequent to July 2, 1930.

"(3) Payments made, in accordance with the provisions of section 202 (3), to a State or subdivision thereof will not exceed the rate charged the general public for the same service, nor will such payments be in excess of the rate provided by contract in effect at the time, whichever is the lesser, and in no case will payment be made in excess of the rates fixed by the bureau schedule of fees. Where payment is made to the person or persons whose funds were used in defraying the cost of hospitalization the rates fixed by the bureau schedule of fees will control.

"(4) No payment will be made either as reimbursement to the person or persons whose funds were used in defraying the cost of hospitalization, or to a State or subdivision thereof, for any period subsequent to a time when the claimant or his legal guardian may have declined or refused Government treatment. The intention of this provision is to prevent payment for services rendered by State institutions after a bureau beneficiary or his guardian has refused available bureau facilities."

And the foregoing regulations are based upon various principles announced by the Comptroller General in his decisions dated December 6, 1926, A-16380 and January 31, 1927, A-17004, and by decisions of the acting general counsel and the general counsel in the cases of George Franklin Rogers, C-212417, and William L. Harrell, C-1092645, under the respective dates of May 13, 1927, and June 10, 1927, the former having been approved by the Director of the then United States Veterans' Bureau on May 20, 1927.

In order to show the basis for the action taken by the administration, it is deemed appropriate to set forth briefly as follows the facts as they appear from the central office records in each of the cases mentioned in the attached bill:

In the case of Ezra M. Cox, C-413, 425, claim for compensation was filed June 22, 1920. An award of compensation was approved October 31, 1921, effective December 11, 1918, for pulmonary tuberculosis. Claim filed by the Indiana State Sanatorium in this case amounts to \$672 covering 224 days' hospitalization at the rate of \$3 per diem during the period July 8 to August 3, 1923, and from August 15, 1923, to February 29, 1924. The records indicate in this connection that the claimant was hospitalized at the United States Veterans' Administration Hospital 79, Dawson Springs, Ky., from January 8 to June 26, 1923, for treatment of tuberculosis, pulmonary, chronic, moderately advanced, active (A), and that under date of June 7, 1923, the claimant requested that he be transferred to the Indiana State Sanatorium, Rockville, Ind., for treatment. He was offered a transfer to the National Military Home, Dayton, Ohio, but refused same and was discharged from the United States Veterans' Administration Hospital, Dawson Springs, Ky., "against medical advice." In view of the fact that the veteran left a United States Veterans' Administration hospital against medical advice and declined the offer of a transfer to the National Military Home, Dayton, Ohio, just previous to the beginning of hospitalization in the Indiana State Sanatorium, this claim was denied in accordance with the provisions of subparagraph 4, section 1252 R. & P., on the ground that the claimant refused governmental treatment.

In the case of Raymond Holmes, C-1140950, claim for compensation was filed September 30, 1921, for pulmonary tuberculosis, the claim being disallowed April 27, 1922. The case was rerated June 19, 1922, at which time a surgical disability, pes planus third degree, was held to be service connected and compensable, and, in accordance with such rating, an award was approved for the surgical disability June 24, 1922, effective September 30, 1919. Claim filed by the Indiana State Sanatorium is for \$735, covering 245 days' hospitalization at \$3 per diem during the period from March 29 to November 28, 1922. In a letter over the signature of the regional adjudication officer, Indianapolis, Ind., under date of September 19, 1930, the following statement is made:

"The claimant's disabilities have been diagnosed as throat trouble and pulmonary tuberculosis, apparently arrested. Compensation has never been paid in this case; therefore, the period of hospitalization mentioned above was not covered by an award of compensation."

In accordance with the advice contained in the letter above mentioned, the amount claimed by the Indiana State Sanatorium in this case was disallowed because the services were not covered by an award of compensation for the disability on account of which hospitalization was necessary.

In the case of Harvey Parrish, C-1144987, the information contained in the central office folder is very incomplete. Claim submitted by the Indiana State Sanatorium is for \$675, covering 225 days' hospitalization at \$3 per diem during the period from November 11, 1921, to February 11, 1922, and from February 16 to June 28, 1922. A letter contained in this case, dated September 19, 1930, over the signature of the regional adjudication officer, Indianapolis, Ind., states:

"This veteran's case was last considered by the bureau on May 1, 1929, at which time the disability of pulmonary tuberculosis, chronic, quiescent, was rated not due to military service. It would, therefore, appear that claim for the above-mentioned expenses could not be allowed, inasmuch as the period of time during which the veteran was hospitalized was not covered by an award of compensation."

In accordance with the information submitted to central office by the regional office as quoted above, the amount claimed by the Indiana State Sanatorium in this case was disallowed:

In the case of Lowell Pfrimer, C-559914, claim for compensation was filed February 5, 1921. An award of compensation was approved October 3, 1921, effective March 21, 1921, for pulmonary tuberculosis. Claim of the Indiana State Sanatorium is for \$2,460, covering 820 days' hospitalization at the rate of \$3 per diem for the period from June 4, 1921 to June 19, 1923, and from July 19 to October 4, 1923, and for \$174, covering 58 days' hospitalization at \$3 per diem during the period January 2 to February 29, 1924.

In a letter to the central office, dated January 19, 1931, over the signature of C. W. Hughes, M. D., regional medical officer, Hines, Ill., the following statement is made:

"This veteran was admitted to the Robinson Hospital at Robinson, Ill., on March 18, 1921, and remained there until April 17, 1921, when he was transferred to the Cook County T. B. Sanatorium at Oak Forest, Ill., as a Government patient. He remained at Oak Forest until May 25, 1921, when he was discharged against medical advice. His reason for leaving is explained by the attached copy of a telegram sent by Warren T. McCray, Governor of Indiana, to the Director Bureau of War Risk Insurance on May 17, 1921. A copy of the reply submitted by the United States Public Health Service is also inclosed.

"It is considered by this office that this patient refused Government care at the time of his entrance to the Indiana State Sanatorium at Rockville, Ind., in the spring of 1921."

A copy of the telegram sent by Governor McCray to the Director Bureau of War Risk Insurance, May 17, 1921, and a copy of the reply to Governor McCray, sent by the medical director, Bureau of War Risk Insurance, are quoted as follows:

INDIANAPOLIS, IND.

C. F. FORBES,

*Director United States Public Health Service,
Care Bureau War Risk Insurance, Washington, D. C.*

Lowell Pfrimmer, an Indiana ex-service man, is now confined in tuberculosis sanatorium, Oak Forest, Ill. I have arranged for his admission to Indiana State Sanatorium at Rockville, provided his release can be secured without affecting

his compensation claim. Please wire me collect authorizing such release under conditions stated.

WARREN T. McCRAY,
Governor of Indiana.

WARREN T. McCRAY,
Governor of Indiana, Indianapolis, Ind.:

Re telegram Lowell Pfrimmer, C-559914. From records filed, claimant not shown compensable for service disability. Claim pending receipt of additional evidence he was requested to furnish April 8. Compensation, however, would not be affected by transfer from hospital to hospital. Bureau War Risk would not be responsible for any expense, hospital nursing or otherwise, if not in hospital under jurisdiction of War Risk Bureau or United States Public Health Service.

HAVEN EMERSON, *War Risk Insurance.*

In accordance with the information contained in the letter from the regional medical officer, above quoted, showing that this veteran left governmental hospitalization to enter the Indiana State Sanatorium, it is considered that the claimant's action was equivalent to a refusal of governmental treatment and thus the amounts charged for his hospitalization by the Indiana State Sanatorium have been disallowed.

In the case of Fred Powell, C-1423237, application for retirement under the provisions of the emergency officers' retirement act was made on May 10, 1929. No claim for compensation has been made in this case. In a rating made on June 24, 1929, the claimant's disabilities general paralysis of the insane; chronic nephritis; amputation first finger right, proximal phalanx; and varicose veins, bilateral, were not shown to have been aggravated by, or due to, military service. Subsequently there was filed a claim for disability allowance, and under date of October 21, 1930, a disability allowance rating was given resulting in an award of \$12 per month commencing July 24, 1930, for 25 per cent permanent partial disability, amputation of first finger, right, proximal phalanx. Claim submitted by the Indiana State Sanatorium in this case is for \$1,587, covering 529 days' hospitalization at \$3 per diem during the period from August 29, 1922, to February 8, 1924. Inasmuch as the disability on account of which this veteran received hospitalization has not been service connected, and the period of hospitalization is not covered by an award of compensation, it was necessary to disallow the amount claimed by the Indiana State Sanatorium.

In the case of Charles Richardson XC-1150463, claim for compensation was filed March 6, 1922, but in a rating made on July 22, 1922, his disability of chronic, pulmonary tuberculosis was held to be not service connected. Claim for compensation was thereafter disallowed on October 3, 1922, and the claimant died July 19, 1923. Under a rerating on October 22, 1929, service connection for the respiratory disability was granted in accordance with the provisions of section 200, World War veterans' act, as amended. However, no disability compensation has ever been paid in the case due to the fact that the rating is given under section 200, which, of course, is not retroactive beyond June 7, 1924. Claim, filed by the Indiana State Sanatorium is for \$213, covering 71 days' hospitalization at the rate of \$3 per diem during the period December 20, 1923, to February 29, 1924. The period of treatment in the Indiana State Sanatorium, it will be noted, is after the date of this veteran's death. It is, therefore, obvious that either an error has been made by the sanatorium in setting out the dates of hospitalization, or else this is not the case of the man hospitalized, although the XC folder shows that this claimant lived at Indianapolis and that his disability was pulmonary tuberculosis the same disability for which the Indiana State Sanatorium provides treatment. The claim of the sanatorium in this instance was accordingly disallowed on the ground that the hospitalization was not covered by an award of compensation.

In the case of Paschal Robinson, C-591196, claim for compensation was filed May 24, 1921. An award of compensation was approved November 29, 1921, effective May 24, 1919, for E. E. N. T. disabilities; otitis media, with partial loss of hearing leading to mastoidectomy and involvement of the left cervical plexus; respiratory disability, pulmonary tuberculosis, and the N. P. disability are not service connected. Claim filed by the Indiana State Sanatorium in this case is for \$183, covering two periods of hospitalization, 28 days, at \$3 per diem, during the period from August 4 to September 2, 1921, and 33 days, at \$3 per diem, from September 19 to October 22, 1921. The claim of the sanatorium in

this instance was disallowed because the hospitalization was not rendered for a service connected disability and the services performed by the Indiana State Sanatorium are not covered by an award of compensation for the disability on account of which hospitalization was necessary.

In the case of Brij Van Gookins (Benjamin C. Van Gorkom), C-1162966, claim for compensation was filed November 21, 1923. An award of compensation was approved September 19, 1924, effective June 7, 1924. The claimant's disability is pulmonary tuberculosis. The rating grants service connection under section 200 of the World War veterans' act. Claim filed by the Indiana State Sanatorium in this case is for \$252, covering 84 days' hospitalization at the rate of \$3 per diem during the period from December 8, 1923, to February 29, 1924. As this period is prior to June 7, 1924, the effective date of the award of compensation, it was necessary that this item be disallowed.

In the case of Clarence N. Young, C-802367, the date of filing claim is not shown in the central office folder. An award of compensation, however, was approved September 1, 1922, effective May 15, 1921, for pulmonary tuberculosis. Claim of the Indiana State Sanatorium in this case is for \$2,019, covering 673 days' hospitalization at \$3 per diem during the period from August 4, 1921, to June 8, 1923. In this case hospitalization through the United States Veterans' Administration was offered this claimant with a refusal of such hospitalization noted as of December 2, 1921. Therefore, there has been allowed in this case to the Indiana State Sanatorium the amount of \$363 for the period from the commencing date of hospitalization, August 4, 1921, up to the date of refusal, December 2, 1921.

In no instance is reimbursement authorized under existing law for the cost of treatment of a nonservice connected disability, neither is reimbursement authorized for the treatment of a service-connected disability for any period beyond the retroactive date on which the claimant would be entitled to compensation for a compensable disability. Reimbursement under section 202 (9) of the World War veterans' act, as amended, for the cost of emergency medical treatment necessary for the relief of a service-connected disability is limited to those cases where Government facilities are not available and delay would have been hazardous. It seems, therefore, that if an act on the part of a claimant in refusing Government treatment in section 202 (9) cases bars him from reimbursement under the provisions of that section that any beneficiary whose condition is not one of emergency and who fails or otherwise refuses to accept governmental treatment, going instead to a State institution, should likewise be barred from reimbursement for such hospitalization under the provisions of section 202 (3), or if the State hospital makes the claim, such hospital should be barred from payment notwithstanding the very liberal provisions of that section.

After giving careful consideration to the proposed bill, S. 1528, this office feels constrained to suggest that the passage of this proposed measure would establish an extremely bad precedent, since it would open the way for the introduction of similar bills in the Congress that would cover thousands of claims that have been disallowed for lack of merit.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Administrator.*

